

Chapter 6

Recordkeeping

A recordkeeping system should ensure the accuracy and reliability of all information in connection with lobbying activities. Records must be maintained in accordance with accepted accounting principles.

The following recordkeeping guidelines conform with FPPC regulations. The guidelines address the most common transactions and will assist in keeping adequate records of payments received and payments made for lobbying activities. An electronic or paper recordkeeping system may be used.

In the event of an audit, the cash disbursements records, cash receipt records, and supporting documentation must be provided so the auditor can verify the accuracy of the reported expenses and receipts.

Lobbyists, lobbying firms, and lobbyist employers/lobbying coalitions are required to keep financial records and substantiating documents for a period of five years from the date of the filer's final report for that calendar year.

Example *On January 1, 2006, a filer may discard records and substantiating documents maintained prior to January 1, 2001. Records must be kept for calendar years 2001-2005.*

Allocating Payments

When payments are made or received for both lobbying and non-lobbying activities, only payments in connection with attempting to influence the California State Legislature or state administrative agencies should be disclosed.

Example *A lobbying firm received \$50,000 from a client to:*

- *Engage in direct communication with the State Legislature on a pending law enforcement bill, \$15,000;*
- *Lobby the U.S. Congress on a similar bill, \$10,000; and*
- *Provide legal representation in a court case, \$25,000.*

The lobbying firm reports \$15,000 on its Form 625.

In some circumstances, it will be necessary to apportion payments based on the percentage of activity related to lobbying. If an allocation method is used, a written statement should be prepared detailing the percentages that are applicable for the reporting periods and the method for determining those percentages. The allocation formula should be reviewed on a regular basis.

The example on the next page shows a format for in-house memoranda.

Quick TIP FPPC Regulation 18614 clarifies when payments to a lobbying firm are reportable as payments for "lobbying services." The regulation addresses legislative-related services, initiative-related services, and litigation services. (See Appendix 1.)

Industrial Buildings, Inc.

January 15, 2005

Memorandum

To: File
From: Accounting Office
Subject: Lobbying Activity

Based on a review of our lobbyist's 2004 timesheets, we have determined that during the first three quarters of 2004, 75 percent of her time was spent on lobbying activities. During the fourth quarter, the rate was 10 percent. Since our activities are fairly consistent from year to year, we have decided to apply the 2004 allocations to 2005. We will review our activities each quarter to ensure that no significant changes have occurred. Therefore, for purposes of reporting salary to our lobbyist and other expenses to support the lobbyist, we will allocate as follows:

1st, 2nd, and 3rd Quarters	75%
4th Quarter	10%

Compensation paid to other employees who spend 10 percent or more of their compensated time on lobbying activities varies and will, therefore, be calculated each quarter.

With respect to overhead and operating expenses, a review of our records for 2004 indicates that during the first, second, and third quarters, 15 percent of our overhead and operating expenses were directly attributable to lobbying activities. During the fourth quarter, the rate was less than one percent. Unless significant changes occur, 2005 operating and overhead expenses will be allocated as follows:

1st, 2nd, and 3rd Quarters	15%
4th Quarter	- 0 -

- A breakdown of the total amount showing the amount of benefit received by each person;
- The full name, official position, and, if applicable, the state agency of the reportable person(s) who benefited from the activity expense. The names of nonreportable individuals do not have to be listed; and
- The total number of beneficiaries.

Example *Six individuals, including two legislators, attended a dinner party hosted by a lobbyist employer. The two legislators' names and position titles, and the total number of individuals in attendance, must be documented.*

If it is not possible to get a receipt or invoice to support an expenditure, a written voucher must be prepared to support the expenditure. The voucher must be prepared in a timely manner (the same day of the expenditure) and must contain the information listed above. In most cases, the names and the number of beneficiaries must be added to the receipt or invoice, or attached on a separate document, since this information is not normally listed.

Activity Expenses

A cash disbursements journal or other form of record must be maintained that shows all activity expenses incurred, paid, or reimbursed.

Substantiating documentation, including restaurant or credit card receipts, invoices, or canceled checks, must also be maintained for each activity expense.

The substantiating documentation must contain the following information:

- The full name of the payee;
- A description of the goods or services for which the payment was made;
- The date and amount of the payment;

Campaign Contributions

Records of all monetary (including loans) and nonmonetary contributions of \$25 or more made to a state candidate, an elected state officer, a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such an officeholder or candidate must be maintained.

The cash disbursements records must contain the following information:

- The full name of the payee and the full name of the recipient of the contribution if other than the payee;
- The date of the contribution;

- The amount of the contribution;
- In the case of a nonmonetary contribution, a description of the goods or services or other consideration provided; and
- In the case of a contribution personally delivered by a lobbyist on behalf of another person, the name of the contributor.

Substantiating documentation must also be maintained, including canceled checks and other bank records supporting the monetary contributions. Such documentation may also include correspondence and fundraising invitations.

Important Notes:

- Lobbyists are prohibited from making contributions to certain state candidates, officeholders, committees controlled by them, or committees primarily formed to support or oppose certain state candidates or officeholders. (See Chapter 7 for more information.)
- For information regarding the “delivery” of campaign contributions, see Chapter 7.
- Lobbying firms and lobbyist employers/lobbying coalitions that are required to maintain records as campaign committees are not required to keep separate records for lobbying disclosure. The records required for campaign disclosure statements meet the lobbying recordkeeping requirements for the campaign contributions reported on a lobbying disclosure report. This documentation may be requested in an audit.

Example *A lobbyist employer sponsors a general purpose committee (“PAC”) and regularly files campaign statements (Form 460). As long as the PAC maintains the required supporting documentation, separate documentation is not required in the lobbying records.*

Payments Received and Made by Lobbying Firms

A cash receipts journal or other form of record must be maintained showing all payments received for lobbying services (e.g., fees, retainers, reimbursements). The records must contain the following information:

- The date each payment was received by the lobbying firm;
- The full name of each person who makes payments to the lobbying firm;
- The amount of each payment;
- The calendar quarter during which the services paid for were rendered.

If a lobbying firm subcontracts with another lobbying firm, including an independent contract lobbyist, for lobbying services, the cash disbursements records must contain the payments made to the subcontractor, including:

- The full name of the client/lobbyist employer;
- The full name of the subcontractor;
- The date of each payment; and
- The amount of each payment.

Substantiating documentation must be maintained, including copies of contracts or correspondence, canceled checks, bank statements, and invoices.

Payments Made by Lobbyist Employers/Lobbying Coalitions

All payments made to an in-house employee lobbyist, such as salaries, fees, reimbursements of expenses, advances, or other payments, must be recorded in the disbursements records. Salary includes gross wages paid, plus any fringe benefits that are in lieu of wages but does not include routine fringe benefits such as the employer’s contributions to a health plan or

retirement plan or payroll taxes. The disbursements records must include:

- The full name of the lobbyist;
- The date of the payment; and
- The amount of the payment.

For each payment made to a lobbying firm (including an independent contract lobbyist) for lobbying services, the disbursements records must show:

- The full name of the lobbying firm that received the payment;
- The date of the payment;
- The amount of the payment; and
- The calendar quarter during which the services paid for were rendered.

Substantiating documentation must be maintained, including canceled checks, receipts or invoices, and bank statements.

Other Payments to Influence Legislative or Administrative Action

“Other payments” by lobbyist employers/lobbying coalitions include:

- Compensation paid to non-lobbyist employees who spend 10 percent or more of their compensated time in any one calendar month in connection with lobbying activities.

Compensation includes gross wages paid plus any benefits that are in lieu of wages such as the granting of stock options or the purchase of annuities. It does not include routine fringe benefits, such as the employer’s contributions to a health plan, retirement plan, or payroll taxes.

Exception: This does not include employees or contractors who provide solely secretarial, clerical, or manual services or only compile data.

- The payment of expenses incurred by an in-house lobbyist, but not paid to the lobbyist (e.g., credit card charges billed directly to the employer or car lease);
- The payment of expenses incurred for goods or services used by a lobbyist or used to support or assist a lobbyist in connection with his or her activities as a lobbyist;
- The payment of any other expenses that would not have been incurred but for the filer’s activities to influence or attempt to influence legislative or administrative action, including office overhead, operating expenses, and payments to expert witnesses; and
- Payments made by a lobbyist employer to a lobbying coalition.

For each “other payment,” the disbursements records must include:

- The full name of the payee;
- The date of the payment;
- The amount of the payment; and
- A description of the goods or services or other consideration for which the payment was made.

Following is a list of some of the types of payments that are required to be disclosed under “Other Payments to Influence”:

- Bill service;
- Bill monitoring services;
- Payments made directly to a vendor for the lobbyist’s air travel, meals, and automobile expenses;
- Conference fees for a lobbyist;
- Payments to a public relations firm for advice, goods, or services in connection with influencing legislative or administrative action;

- Payments to a law firm for drafting or analyzing legislation when the firm does not engage in direct communication on behalf of the lobbyist employer/lobbying coalition; and
- Payments for informational brochures, videos, pamphlets, and similar materials specifically designed for lobbying purposes.

Exception: Payments for research that is undertaken for non-lobbying purposes are not required to be reported even if the results are subsequently used in lobbying-related videos, pamphlets, etc.

Payments in Connection with Administrative Testimony in Proceedings Before the California Public Utilities Commission

Filers reporting expenses incurred in connection with proceedings before the California Public Utilities Commission must maintain records of compensation paid to attorneys for their time spent appearing or preparing to appear as counsel in those proceedings, and compensation paid to witnesses for their time spent testifying or preparing to testify at those proceedings.

For each payment, the disbursements records must include:

- The full name of the payee;
- The date and amount of the payment; and
- A description of the payment.

Sample Recordkeeping Journal

The following is an example of a recordkeeping journal that may be used as a guideline. Any system of recordkeeping is permissible if it is in accordance with accepted accounting principles. In the event of an audit, journals and all substantiating documentation must be provided so that the auditor can verify the accuracy of the information disclosed.

Check No.	Cash	Date	Name and Address of Payee	Description	Total Amount	Percent Lobbying	Amount
Other Payments:							
150		2005 1/24	Mid-Town Rentals 200 C Street Sacramento, CA	Office Space	6,000.00	50%	3,000.00
180		2/8	E-Z Travel 100 Broadway Sacramento, CA	Lobbyist Travel to S.F.	186.00	100%	186.00
Activity Expenses:							
	X	1/19	Sam's Club 900 Capitol Avenue Sacramento, CA	Lunch Sen. Smith \$9.98 Dan D. Lyon \$14.32	24.30	100%	24.30
210		3/23	Bank of Charlie Brown Visa Café Condor 9 Front Street Sacramento	Lunch Trevor Green Consultant to Assemblywoman Amelia Tiburón \$9.56 Sharon Silva \$12.96	22.52	100%	22.52
Campaign Contributions:							
340		3/6	Sally Grindley for Senate 103 Malton Blvd. Shasta, CA	Campaign Contribution ID #952468	250.00	N/A	250.00
345		3/10	Snappy Buttons 703 Broadway Sacramento, CA Committee to Elect Zelda Corey	Campaign Contribution Non-monetary ID #958899 Election Buttons	632.00	N/A	632.00
Payments to Lobbyists:							
348		3/1	Dan D. Lyon 3600 Sandpiper Drive Sacramento, CA	Salary Reimburse. of Expenses	5,000.00 800.00	50% 100%	2,500.00 800.00
Payments Received:							
1369		3/5		SR Services, Inc. December Retainer Reimbursement of Expenses	9,000.00 600.00	100% 100%	9,000.00 600.00

Audits

Lobbying firms and lobbyist employers/lobbying coalitions that employ one or more lobbyists will be subject to audit on a random basis every two years and will have a 25 percent chance of being audited. When a lobbying firm or lobbyist employer/lobbying coalition is selected for audit, all of the individual lobbyists employed by the firm or employer will also be audited. Audits are conducted by the Franchise Tax Board.

Statutory and Regulatory References

Statutes

- 82002 *Administrative Action*
- 82032 *Influencing Legislative or Administrative Action*
- 82037 *Legislative Action*
- 82045 *Payment to Influence Legislative or Administrative Action*
- 86110 *Recordkeeping*

Regulations

- 18610 *Lobbyist Accounting*
- 18611 *Lobbyist Reporting*
- 18612 *Accounting by Lobbying Firms*
- 18613 *Reporting by Lobbying Firms*
- 18614 *Payments of Lobbying Services*
- 18615 *Accounting by Lobbyist Employers and Persons Spending \$5,000 or More to Influence Legislative or Administrative Action*
- 18616 *Reports by Lobbyist Employers and Persons Spending \$5,000 or more to Influence Legislative or Administrative Action*